

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF OHIO  
WESTERN DIVISION**

JOHN OLIVER EDWARDS,

Plaintiff,

v.

C-1-01-582

IOF FORESTERS SEVERANCE PAY  
PLAN AND SUMMARY PLAN  
DESCRIPTION FOR FIELD DISTRICT  
MANAGEMENT EMPLOYEES OF THE  
INDEPENDENT ORDER OF FORESTERS  
WHO WORK IN U.S. FIELD OFFICES, et al.,

Defendants.

**ORDER**

This matter is before the Court upon defendant IOF's motion to dismiss its counterclaims with prejudice pursuant to Fed. R. Civ. P. 41(a)(2) (doc. 62) and plaintiff's motion to strike evidentiary documents filed by defendant from the record pursuant to Fed. R. Civ. P. 12(f) (doc. 68).

Plaintiff does not oppose dismissal of defendant's counterclaims, and dismissal of the counterclaims with prejudice is appropriate. In his memorandum in response to the motion, plaintiff requests attorney fees and costs incurred in connection with his defense of the counterclaims (doc. 67). Plaintiff has not cited any authority in support of his request for attorney fees and costs relative to the counterclaims and has failed to show that he is entitled to an award of such fees and costs. The Court therefore denies plaintiff's request for same.

Plaintiff moves the Court to strike from the record all evidentiary materials filed by defendant with the exception of the materials defendant has designated as the administrative record. The Court has previously ruled that only the administrative record can be considered in resolving plaintiff's claims. There is no basis, however, for striking other evidentiary materials from the record since Fed. R. Civ. P. 12(f) authorizes the Court to strike only "any redundant, immaterial, impertinent, or scandalous matter" from a pleading and does not authorize the Court to strike evidence from the record.

For these reasons, defendant's motion to dismiss its counterclaims with prejudice (doc. 62) is **GRANTED**. Plaintiff's motion to strike evidentiary materials from the record (doc. 68) and his request for attorney fees are **DENIED**. This case is **TERMINATED** on the docket of the Court at plaintiff's cost.

**IT IS SO ORDERED.**

S/ Herman J. Weber

HERMAN J. WEBER  
SENIOR JUDGE, UNITED STATES DISTRICT COURT

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